

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBBIE CARL ELLINGTON, Jr.,
Plaintiff,
v.
CITY OF SACRAMENTO, *et al.*,
Defendants.

Case No. 2:25-cv-0158-DC-JDP (PS)

ORDER

Plaintiff Robbie Ellington, proceeding pro se, alleges that defendants, Sacramento County Police Officers, violated his federal and state rights. Defendants have filed a second motion to dismiss, arguing that plaintiff's amended complaint is untimely by three days and that this action should be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110. I will deny defendants' motion without prejudice.

On April 4, 2025, the court permitted plaintiff to file an amended complaint within thirty days. ECF No. 11. Thirty days from April 4, 2025, was May 4, 2025, which was a Sunday. Federal Rule of Civil Procedure 6(a)(1)(C) extends Sunday deadlines to the next day that is not a Saturday, Sunday, or holiday, which, in this case, would be May 5, 2025. And because plaintiff mailed the amended complaint, Federal Rule of Civil Procedure 6(d) provides an additional three days "after the period would otherwise expire under Rule 6(a)," thereby extending the deadline to

1 May 8, 2025. The court received plaintiff's amended complaint on May 8, 2025, and the Clerk of
2 Court docketed it on May 9, 2025.¹

3 But even if plaintiff filed his amended complaint three days late, the court would be
4 loathed to dismiss this action based on such a minor nonadherence to procedural requirements by
5 a pro se litigant. This is in line with this court's strong preference to decide matters on the merits
6 over procedural grounds.

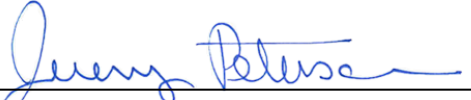
7 Accordingly, it is hereby ORDERED that:

8 1. Defendant's motion to dismiss, ECF No. 15, is DENIED without prejudice.

9 2. Defendants shall file a responsive pleading to the second amended complaint, ECF No.
10 14, within twenty-one days of this order.

11 IT IS SO ORDERED.

12 Dated: September 18, 2025

13 
14 JEREMY D. PETERSON
15 UNITED STATES MAGISTRATE JUDGE
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26 ¹ Plaintiff signed his complaint April 28, 2025, and mailed it from Sierra Conservation
27 Center, a state prison in Tuolumne County. Under the mailbox rule, a prisoner's pleading is
28 "deemed filed when he hands it over to prison authorities for mailing to the relevant court."
Houston v. Lack, 487 U.S. 266, 276 (1988); *Huizar v. Carey*, 273 F.3d 1220, 1222 (9th Cir.
2001).